

402075/17359

**UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF DELAWARE**

LISA DESOMBRE, a natural guardian )  
of AJH, a minor, )  
  )  
Plaintiff, )  
  )  
v.                                    ) C.A. No.: 07-CV-00022 (JJF)  
  )  
KB TOYS, INC., d/b/a KB TOYS, ) TRIAL BY JURY OF 12  
  ) DEMANDED  
Defendant.                         )

**NOTICE OF MOTION**

To: Marc H. Snyder, Esquire  
Rosen, Moss, Snyder & Bleefeld, L.L.P.  
1813 Marsh Road, Suite D  
Wilmington, DE 19810

PLEASE TAKE NOTICE that the attached Motion will be presented to the Court  
at the convenience of the Court.

**HECKLER & FRABIZZIO**

DANIEL L. MCKENTY (I.D. No. 2689)  
The Corporate Plaza  
800 Delaware Avenue, Suite 200  
P.O. Box 128  
Wilmington, DE 19899-0128  
(302) 573-4800  
Attorney for Defendant

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**RULE 7.1.1 STATEMENT**

Due to the nature of the motion, pre-motion discussions would be futile.

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Defendant. ) )	)

**MOTION IN LIMINE OF DEFENDANT K.B. TOYS**

COMES NOW Defendant, KB Toys, Inc. ("KB Toys"), by and through counsel, and moves this Court for an Order in Limine barring the introduction by plaintiff of a medical expert in this matter. In support thereof, defendant states as follows:

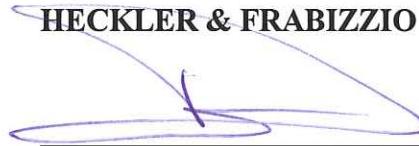
1. This case arises from an alleged incident occurring at the KB Toys Store at the Dover Mall in Dover, Delaware on January 15, 2005 wherein plaintiff alleges that her son, minor plaintiff, was struck in the head with a hammer due to the alleged negligence of KB Toys.
2. Pursuant to the trial scheduling order, plaintiff's expert deadline passed on July 2, 2008. (See Trial Scheduling Order attached hereto as Exhibit "A").
3. Allowing plaintiff to identify medical experts and produce a medical expert report after the deadline would severely prejudice the defendant in this matter. Defendant would be unable to identify or produce a medical expert witness and/or report to rebut plaintiff's medical expert within the confines of the trial scheduling order.
4. Further, as mediation in this matter is scheduled for August 5, 2008 and trial is scheduled to commence on December 4, 2008, in the interests of fairness and judicial

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economy, any attempt by plaintiff to identify an expert or produce an expert report should be barred.

**WHEREFORE**, Defendants, KB Toys, move this Honorable Court to issue an Order in Limine barring the introduction of expert testimony from Plaintiff.

**HECKLER & FRABIZZIO**



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Defendant. ) )	

**PROPOSED ORDER**

NOW TO WIT, this \_\_\_\_\_ day of \_\_\_\_\_, 2008, Defendants' Motion in Limine  
is hereby **GRANTED**.

IT IS SO ORDERED.

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J.

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Defendant. ) DEMANDED

**CERTIFICATE OF SERVICE**

I, **Daniel L. McKenty**, hereby certify on this 16<sup>th</sup> day of July 2008, copies of the attached Notice of Motion, Motion in Limine and Order were served on the following individuals via first class mail:

Marc H. Snyder, Esquire  
Rosen, Moss, Snyder & Bleefeld, L.L.P.  
1813 Marsh Road, Suite D  
Wilmington, DE 19810

**HECKLER & FRABIZZIO**

  
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